



An  
Bord  
Pleanála

## Inspector's Report

### ABP-317759-23

<b>Development</b>	Limerick City and County Council (Golf Links Road Upgrade) Compulsory Purchase Order 2023.
<b>Location</b>	Ballysimon, Limerick.
<b>Planning Authority</b>	Limerick City and County Council
<b>Applicant(s)</b>	Limerick City and County Council.
<b>Type of Application</b>	Compulsory Purchase Order under the provisions of the Local Government (No. 2) Act 1960, the Housing Act 1966 (as amended), the Roads Act 1993 (as amended) and the Planning and Development Act 2000 (as amended).
<b>Objectors</b>	Anthony Nolan Liam Hickey
<b>Date of Oral Hearing</b>	6 November 2024
<b>Date of Site Inspection</b>	23 September 2024
<b>Inspector</b>	Claire McVeigh

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## **1.0 Introduction**

### **1.1. Overview**

- 1.1.1. Limerick City and County Council (LCCC) is seeking confirmation by the Board of a Compulsory Purchase Order (CPO) entitled 'Golf Links Road Upgrade Compulsory Purchase Order 2023'.
- 1.1.2. The CPO relates to the compulsory acquisition of lands for the purposes of upgrading a section of the Golf Links Road (L1116) approximately 350m north from the junction with the Old Ballysimon Road (L1171) up to its junction with the entrance to Cairnsfort estate and the upgrading the Old Ballysimon Road (L1171) (approximately 300m from the L1171/L1116 Junction south-east wards along the L1171 Old Ballysimon Road), in Limerick City.
- 1.1.3. LCCC has made the CPO and submitted the request for confirmation pursuant to the powers conferred on it. The CPO is made under section 76 and the Third Schedule to the Housing Act 1966, as extended by Section 10 of the Local Government (No. 2) Act, 1960, as substituted by Section 86 of the Housing Act, 1966 and as further amended by Section 6 and the Second Schedule of the Roads Act 1993, and by Section 213 of the Planning and Development Act 2000 (as amended).
- 1.1.4. The Board should note that at a meeting on 20 September 2021 the Part 8 for the Golf Links Road Upgrade was presented to the members of LCCC (Planning reference: 21/8006) and approved. The proposed acquisition is intended to support the delivery of these upgrade works.
- 1.1.5. Two objections were received in respect of the CPO. One objection was conditionally withdrawn. Given the conditional nature of the withdrawal the objection will continue to be considered in my assessment. This report considers the issues raised in the objections submitted to the Board and, more generally, the application to acquire lands for the stated purpose.

## **1.2. Purpose of the Compulsory Purchase Order (CPO)**

- 1.2.1. The purpose of the CPO is to acquire lands required for the upgrade of a section of the Golf Links Road and Old Ballysimon Road and associated development as set out in planning register reference: (21/8006), please see section 6.0 of my report.

## **1.3. Accompanying Documents**

The following documents accompany the application for confirmation of the compulsory purchase order:

- Cover letter dated 3<sup>rd</sup> August 2023, outlining the contents of the application,
- Copy of the Compulsory Purchase Order (CPO)
- Copy of CPO Drawings including 'Compulsory Purchase Order Deposit Map' and copies of the 'Compulsory Purchase Order Serve Map' in respect to Landowners 1-16 inclusive.
- Public Notice Advertisement of the order – Limerick Post newspaper published on the 29<sup>th</sup> of July 2023. Stated to have been also published in the Limerick Leader Newspaper (No copy has been made available)
- Copy of Notice served on owners/lesser/occupiers, certification of posting on site and record of registered post certificate of posting.
- Copy of Director of Service Transport and Mobility Directorate letter dated 17 July 2023
- Copy of Chief Executive Order dated 18 July 2023
- Copy of Senior Planner Report dated 19 May 2023
- Copy of Senior Executive Engineer Report dated 17 July 2023
- Copy of Consultant's Certificate – MHL & Associates Ltd. dated 8 March 2023
- Copy of Part 8 Planner's Report and Council Approval.

## **1.4. Reference to relevant Part XI/Part 8**

Planning Reference No. 21/8006 was approved by the elected members on the 20 September 2021 following public display between Monday 31 May 2021 to Tuesday

29 June 2021, with a submissions and observations deadline of Wednesday 14 July 2021.

The proposed development comprises of: -

- Demolition of Ballysimon Bridge over the River Groody on Golf Links Road L1116. Ballysimon Bridge is on the record of protected structures register number 1596 Ballysimon Bridge.
- Construction of a new bridge over the River Groody,
- Construction of new flood defence walls along the River Groody, including weir wall upstream of the new bridge,
- Road widening and upgrade of 350 metres of roadway on Golf Links Road L1116 and 300 metres of roadway along Ballysimon Road L1171,
- Construction of boundary walls, footpaths, cycleways, traffic lights and public lighting, installation of surface water sewers, foul sewers, gas main, telecommunication, utility services, and associated services,
- Installation of traffic calming measures on Old Ballysimon Road including new gateway entry to the city, traffic calming measures on Golf Links Road,
- New road surfacing, new road markings, upgraded road signage and street furniture and all ancillary works necessary for completion at Ballysimon, Ballysimon (Staunton) and Garryglass, Co. Limerick.

The planning report addressed the planning and environmental considerations arising from the proposed development and the (13 No.) submissions/observations received.

An Appropriate Assessment Screening Report was prepared by Doherty Environmental Consultants Ltd

An EIA Screening report prepared by Doherty Environmental Consultants Ltd which concluded that the proposed upgrade of the Golf Links Road does not trigger the threshold for mandatory EIA/EIAR and has been assessed as sub-threshold EIA development.

## **1.5. Format of the CPO Schedule**

If confirmed the Order will authorise the local authority to acquire compulsorily the land, rights of way, easements and other rights described in Schedule Part 1 (Lands being permanently acquired) and Schedule Part 2 (Lands being temporarily acquired).

Land, as shown, coloured grey with yellow call-off (permanent land take) and coloured blue call-off (temporary land take) and outlined in red on the deposit maps of the scheme consisting of seventeen (17) sheet maps numbered GLR-CPO-P01 to GLR-CPO-P17 and marked Limerick City and County Council Golf Links Road Upgrade Compulsory Purchase Order 2023.

## **2.0 Site Location and Description**

2.1. The Golf Links Road and the Old Ballysimon Road are located at the southeastern edge of the designated Limerick City and Suburbs area and within approximately 250 metres from the M7 (Junction 29). This suburban edge of city location is mixed in nature, however, the immediate area adjacent to the subject lands are substantially residential in character. The area to the south of the Old Ballysimon Road is not as developed and establishes the transitional nature of this area, between this edge of city and suburbs area and the rural environs.

2.2. The river Groody and a mill race both pass under the Golf Links Road, resulting in two pinch points in the width of the roadway. Ballysimon Bridge (noted a 3Tonne limit) is a protected structure (RPS ref. no. 1596), and I note also that O'Shea's (Thatched public house) located at the junction of the Golf Links Road/Old Ballysimon Road is a protected structure (RPS re. no. 1634). To the opposite side (western) of the road junction is objector Anthony Nolan's two storey detached property 'Riverside'. There are a few large, detached properties located on the eastern side of the Golf Links Road with defined site boundaries of mature planting and high stone walls. A pedestrian footpath runs from the junction with Cairnsfort estate to just south of the underpass of Ballysimon Road (R527) at the property boundary of dwelling 'Cullendale'. The western edge of the roadway is defined by mature trees and hedgerow with one vehicular entrance leading objector Liam Hickey's property 'Millview House'.

- 2.3. In respect to the Old Ballysimon Road section the southern edge of the road there are a few large gardens to the detached dwellings along this section of the road and the remaining is principally rural in nature and defined by mature trees along the edge of the agricultural fields and hedgerows.

### 3.0 The Proposal/CPO

- 3.1. The Compulsory Purchase Order (CPO) relates to the compulsory acquisition of lands for the purposes of upgrading a section of the Golf Links Road (L1116) approximately 350m north from the junction with the Old Ballysimon Road (L1171) up to its junction with the entrance to Cairnsfort estate and the upgrading the Old Ballysimon Road (L1171) (approximately 300m from the L1171/L1116 Junction south-eastwards along the L1171 Old Ballysimon Road).
- 3.2. Schedule Part 1 lands being permanently acquired, and Schedule Part 2 lands being temporarily acquired. Accompanying 17 no. CPO Maps drawing numbers GLR-CPO-P01 to GLR-CPO-P17.

### 4.0 Policy Context

- 4.1. **Limerick City and County Council Development Plan 2022-2028** (came into effect 29 July 2022) Variation No. 1 adopted by the Elected Members 22 May 2023.

The development plan incorporates the area previously covered by the Castletroy Local Area Plan (*now revoked, see section 4.4 for reference purposes*). As per **Section 2.5** “The Plan incorporates the areas currently covered by the Southern Environs Local Area Plan and the Castletroy Local Area Plan. This will ensure that for the first time, the Limerick City and Suburbs (in Limerick), Mungret and Annacotty will have one overall spatial framework plan and zoning objectives. Following the adoption of the Plan, both the Castletroy and the Southern Environs Local Area Plans will be revoked”.

- **Policy TR P4: Promotion of Sustainable Patterns of Transport Use**

It is a policy of the Council to seek to implement in a positive manner, in cooperation with other relevant authorities and agencies, the policies of the

NPF, RSES and the Department of Transport's Smarter Travel, A Sustainable Transport Future 2009 – 2020 (and any subsequent updates), to encourage more sustainable patterns of travel and greater use of sustainable forms of transport, including public transport, cycling and walking.

- **Policy TR P5: Sustainable Mobility and Regional Accessibility**

It is a policy of the Council to support sustainable mobility, enhanced regional accessibility and connectivity within Limerick, in accordance with the National Strategic Outcomes of the National Planning Framework and the Regional Spatial and Economic Strategy for the Southern Region.

- **Objective TR O2: Design Manual for Urban Roads and Streets**

It is an objective of the Council to support the appropriate road design standards of all roads and streets within the urban areas, including suburbs, towns and villages within the 60km/h zone as per the Design Manual for Urban Roads and Streets and TII Publication Standards DN-GEO-03084 The Treatment of Transition Zones to Towns and Villages on National Roads.

- **Objective TR O6: Delivering Modal Split**

It is an objective of the Council to: a) Promote a modal shift away from the private car towards more sustainable modes of transport including walking, cycling, carpool and public transport in conjunction with the relevant transport authorities; b) Support investment in sustainable transport infrastructure that will make walking, cycling, carpool and public transport more attractive, appealing and accessible for all.

- **Objective TR O8: Walking and Cycling Infrastructure**

It is an objective of the Council to: a) Improve and provide clear, safe and direct pedestrian linkages, cycle networks, including the greenways and primary segregated cycle routes, between the employment zones, shopping areas and residential areas throughout Limerick; b) Maintain and expand the pedestrian route network, infrastructure and where possible, retrofit cycle and pedestrian routes into the existing urban road network, to provide for accessible safe pedestrian routes within Limerick.

- **Policy TR P11: Road Safety and Carrying Capacity of the non-national Road Network**

It is a policy of the Council to safeguard the carrying capacity and safety of the non-national road network throughout Limerick.

- **Objective TR O38: Improvements to Regional and Local Roads**

It is an objective of the Council to provide for and carry out sustainable improvements to sections of regional roads and local roads, that are deficient in respect of alignment, structural condition, or capacity, where resources permit and to maintain that standard thereafter.

- **Objective TR O42: Roads and Streets**

It is an objective of the Council to secure improvements to the road network in Limerick, including improved pedestrian and cycle facilities, in conjunction and co-operation with relevant stakeholders, subject to resources becoming available.

- **Objective CAF O4: Climate Proofing**

It is an objective of the Council to ensure climate proofing measures are incorporated into the design, planning, layout and orientation and construction of all developments, including the use of sustainable materials, selection of suitable locations and the use of renewable energy sources.

- **Volume 2a Map 6: Limerick City and Suburbs (in Limerick), including Mungret and Annacotty – Transport map.** Indicative cycleway/walkway shown along Golf Links Road connecting to existing cycleway/walkway on Old Ballysimon Road.

- **Volume 2a Map 3: Limerick City and Suburbs (In Limerick), including Mungret and Annacotty.** Relevant land zoning of lands and lands adjacent to the existing relevant road sections includes 'Groody Valley Green Wedge', 'Agriculture' to the south of Old Ballysimon Road, 'New Residential' and 'Existing Residential'.

I note that both of the objectors' lands are zoned 'Groody Valley Green Wedge'

- **Zoning: Groody Valley Wedge**

Objective: To preserve and protect the Groody Valley from development.

Purpose: To maintain the area's importance in preventing the encroachment of the built-up area of Limerick City and to retain its important role as a wildlife corridor and a flood management zone.

4.2. **Castletroy Local Area Plan 2019-2025** (came into effect 19 January 2019 and revoked September 2022) Policy noted as relevant at the time of consideration of the Part 8 (Planning ref: 21/8006).

*Section 6.1* junction improvement works shall include... Lower Golf Links Road/Old Ballysimon Road Junction

***Objective T5: Movement and Accessibility*** (Relevant Extracts)

It is an objective of the Council to:

- (a) Encourage the development of safe and efficient movement and accessibility networks that will cater for the needs of all users and to encourage priority for walking and cycling, public transport provision and accident reduction.
- (b) Ensure that adequate facilities and access provisions are provided for those with disabilities in the community. The Council will strive to ensure that the provision of such facilities will be in line with current good practice in relation to such issues.
- (c) Improve the efficiency of junctions in the district to enhance the free flow of traffic through the district.
- (f) Improve directional signposting in the district
- (h) To promote and provide facilities to facilitate increase public transport, cycling and walking and deliver significant modal shift from private car usage to more sustainable transport modes.
- (i) Provision of clear and unambiguous carriageway markings and associated directional signage indicating directional priorities for traffic.

(j) Facilitate the improvement of junctions on Public Roads.

*Section 6.3* To support Objective T5 it is proposed to facilitate improvement works to existing public roads including –

- Upgrade and widen Lower Golf Links Road including bridge upgrade works.

## **Appendix 2, Map C-19/25-03 Transport and Amenity Map**

### ***Objective T6: Network of pedestrian and cycle facilities***

It is an objective of the Council to encourage walking and cycling as more convenient, popular and safe methods of movement in Castletroy and facilitate the provision of an attractive and coherent network of off-road footpaths and cycle facilities.

This will be achieved by:

- (a) Seeking secure cycle parking facilities at appropriate locations as opportunities arise.
- (b) Combined off-road footpath and cycleway links will be required, and gaps will be identified in the network.
- (c) A pedestrian/cycle network will be encouraged where identified in Map C-19/25-03 linking existing and proposed residential areas to each other and to amenity areas and to provide permeability across the area.

It is proposed to improve the provision of walking and cycling facilities on the following public roads, including (extract)

- Golf Links Road

## **Section 8.4 Natural Environment**

### **Policy EH 05: Groody Valley Green Wedge**

It is the policy of the Council to preserve and protect the River Groody Green Wedge from inappropriate development in order to maintain its significance as an important ecological role, as a natural wildlife corridor and as a flood risk management zone. The protection of this area is also considered necessary to act as a natural amenity area both for the immediate area, and the nearby city. The management techniques

outlined in the Groody River Valley Management Plan in Appendix 2, Map C-19/25-05 of this LAP shall be adhered to.

The Groody is an important riverside amenity and the area around the Groody River is a particularly quiet area in the midst of otherwise noisy surrounding. With this in mind it is the policy of the council to ensure that the area is traversed only by cycleways and walkways. However, it is the policy of the council to facilitate the provision of a Park and Ride, recreational, amenity and low intensity agricultural use at this location

Appendix 2, Map 5-19/25-05 Groody River Valley Management Plan (Indicative riverside walkway/cycleway and links shown on lands north of the river)

## **5.0 Natural Heritage Designations**

The subject lands are approximately 2.8km from the Lower River Shannon SAC (Site Code: 002165) and approximately 4.5km from the pNHA Fergus Estuary and Inner Shannon, North Shore (Site Code: 002048).

## **6.0 Planning History**

6.1. The following planning history is of relevance to the proposed CPO lands.

### Planning Reference No. 21/8006:

Local authority own development Part XI/Part 8 Procedure proposed upgrade of Golf Links Road, Limerick chief executive report presented at monthly meeting of the metropolitan district of Limerick on Monday 20 September 2021 for the elected members consideration for the proposed development as described in 1.4 of my report.

## 7.0 Objections to the Compulsory Acquisition of Lands

7.1. A total of 2 no. objections to the CPO were received, from the following:

- Anthony Nolan
- Liam Hickey

7.2. The objections are summarised as follows:

7.2.1. Objection by Anthony Nolan C/O Mary Murphy Solicitors, relating to lands being permanently acquired identified in the First Schedule as Map Ref. P06.1a & Map Ref. P6.1b and lands being temporarily acquired identified in Schedule Part 2 as Map Ref. P06.1c.

- Concerns about the devaluation of property and residence.
- Access to the house will be restricted. Requires wheelchair access and a safe parking space for pickup/drop off.
- The wall proposed to be erected adjacent to the kitchen door of the dwelling is very close to the doorway and is not acceptable.
- Proposed wall from the bridge to existing garage should be extended further.
- Construction noise levels will cause extreme stress.
- Request that the proposed floodwall position be reviewed. His boundary should be at the middle of the river and his garden should include the space on the riverside of the existing hedge.

7.2.2. Objection by Liam Hickey, relating to lands being permanently acquired identified in the First Schedule as Map Ref. P11.1a & Map Ref. P11.1b and in respect to lands being temporarily acquired identified in Schedule Part 2 as Map Ref. P11.1c.

- Is of the view that the CPO is an extension of the original CPO imposed on them in respect to the Annacotty/Adare Motorway.
- Issues raised in relation to non-return of original deeds.

## **8.0 Oral Hearing**

- 8.1. An Oral Hearing was held on Wednesday 6<sup>th</sup> November 2024. One objector, Liam Hickey, conditionally withdrew his objection and was not in attendance at the oral hearing. His written objection has been read, noted and will be included in the consideration of this confirmation request. Objector Anthony Nolan and Limerick City and County Council were represented at the hearing and oral submissions were heard by, or on behalf of, all parties.
- 8.2. A summary of the hearing is included in Appendix 1 of this report. Proceedings got underway with the opening statement. Participants were informed that the purpose of the oral hearing was as an information gathering exercise to assist in the consideration of the proposed CPO and in drafting the report and recommendation to the Board.
- 8.3. Participants were also advised that the planning merits of the Part 8 Scheme have already been determined by the Local Authority. Participants were reminded that the Board has no role or jurisdiction in the determination of compensation.

## **9.0 Assessment**

### *9.1. Overview*

- 9.2. The key principles to guide the Board in their considerations of whether or not to confirm the subject CPO, are as follows:
- There is a community need that is to be met by the acquisition of the lands in question.
  - Acquisition is necessary and the project proposed, and the associated acquisition of lands is suitable to meet the community need.
  - Any alternatives proposed to meet the community need have been considered but are not demonstrably preferable.
  - Consistent with the statutory development plan relating to the area.
  - Overarching principle of proportionality.

### 9.3. *Community need*

- 9.3.1. The proposed CPO is intended to support the delivery of the Part 8 project for the upgrade of the Golf Links Road in Limerick which was approved by Limerick City and County Council (LCCC) in September 2021 (Planning register ref: 21/8006 please see section 6.0 of report). The upgrade project comprises the demolition of Ballysimon Bridge (RPS: 1596) over the River Groody on Golf Links Road L1116 and construction of a new bridge. It is also proposed to construct flood defence walls along the River Groody, including a weir wall upstream of the new bridge. The Golf Links Road (350m of Roadway) and Old Ballysimon Road (300m of roadway) is proposed to be widened and upgraded to include a new pedestrian crossing, traffic calming measures, pedestrian footpaths and cycleways. Traffic lights at the junction between and public lighting is proposed along with associated infrastructure and services.
- 9.3.2. From my site inspection I note the two pinch points at Mill Race and the Ballysimon Bridge. Given there is no footpath along this section, the narrowness of the roadway and the level of traffic I would agree that there is a demonstrable community need with respect to safety, condition and capacity of the road as further evidenced by the local authority in their written and oral submissions. In addition, I note that the area is also subject to river flooding in the vicinity of the Ballysimon Bridge by the Groody River.
- 9.3.3. The land proposed to be acquired is for the purposes of the provision of an upgraded road and to signalise the Golf Links Road/Old Ballysimon Road junction in order to create a new gateway at this transition zone and provide for a safer road arrangement that will accommodate existing and future pedestrian, cycle and vehicular traffic accessing the Ballysimon employment area from the residential districts of Castletroy, Monalee, Newport and Annacotty. The proposed new bridge with two box culverts is stated has been designed to cater for a 100-year design flow and the proposed flood wall along the southern bank (1.4m high wall from 45m upstream of Ballysimon Bridge to 65m downstream of Ballysimon Bridge) would cater for 1 in 1000-year design flood return period, as advised at the Oral Hearing.
- 9.3.4. I consider that the local authority through the written and oral submissions at the oral hearing has demonstrated sufficiently a community need for the scheme based on

the need for the improved transport links, the need for a safer environment for pedestrians and cyclists and the mitigation of flood risk. In this respect, I agree with the local authority that the subject lands as identified on the Compulsory Purchase Order Deposit Maps are necessary to be acquired, on a temporary and permanent basis, to facilitate the road upgrade and flood protection works.

- 9.3.5. In conclusion, with regard to the extent of acquisition, having reviewed the drawings submitted with the CPO application and the proposed scheme drawings (submitted with the Part 8 application register reference 21/8006), and having conducted an oral hearing, I am satisfied that LCCC has established that the land to be acquired for the purposes of the road (including cycleways and pedestrian footpaths) to address current deficiencies in the road for public use and flood risk mitigation in the public interest and has, therefore, established a valid community need.

9.4. *Acquisition is necessary and the project proposed, and the associated acquisition of lands is suitable to meet the community need*

- 9.4.1. The report of the Senior Executive Engineer submitted with the CPO application, as recommended by Senior Engineer, outlines that relevant council staff have met with landowners and other affected parties and have attempted to acquire the land by agreement. It is stated that these efforts have not been successful, and it is their opinion that continuing with protracted negotiations will not prove successful in acquiring the land. The Director of Services (Transport and Mobility Directorate) confirms, in certificate dated 17 July 2023 that they are also satisfied that it is unlikely that the land can be acquired voluntarily.
- 9.4.2. I am of the opinion, having regard to these referenced written submissions, and the further statements made at the oral hearing that the local authority have demonstrated their endeavours to reach agreement through alternative measures. I note that both the local authority and the objector, Mr. Nolan, present at the hearing agree that there has been a positive engagement and acknowledged the efforts being made to deliver a proper plan to mitigate the impacts of the CPO and its associated Part 8 scheme.
- 9.4.3. I acknowledge the constructive engagement between the local authority and Mr. Nolan at the oral hearing in respect to accommodation works put forward by the local authority to provide further mitigating options in respect to the boundary treatment

which would provide additional separation distance from the side gable of the house and doorway and the provision of replacement planting. I am of the view that such accommodation measures are not material to the consideration of the CPO application and can be subject to further discussions between the parties.

- 9.4.4. I separately note the conditional withdrawal of the objection from Mr. Hickey, copy received by email on the 5 November 2024. Mr. Hickey is withdrawing his objection subject to a number of conditions. The conditions include a suitably high wall built outside his property, that the entrance to his property is kept wide enough to allow access for an articulated truck and that no works be carried out until compensation has been agreed and paid. In relation to these conditions the local authority confirmed at the oral hearing that the local authority has responded by letter of the 5 November 2024 defining what the local authority is willing to accommodate, but it does not confirm all of the requested conditions. No further detail was provided to me in respect to the local authority's response. On the basis of the information before me I am of the view that such accommodation measures are not material to the consideration of the CPO application and can be subject to further discussions between the parties.
- 9.4.5. Having regard to the previous unsuccessful engagement to acquire the land voluntarily undertaken by the local authority I would be of the view that the compulsory acquisition is necessary, the community need cannot be met without the land take and in my opinion the objective may not be achieved by means which are less interfering of an individual's rights<sup>1</sup>, and the project proposed, and the associated acquisition of lands is suitable to meet the community need (as considered in section 9.3 of my report).
- 9.5. *Any alternatives proposed to meet the community need have been considered but are not demonstrably preferable.*
- 9.5.1. In assessing applications for compulsory purchase the Board should satisfy itself that alternatives proposed to meet the community need have been considered but are not demonstrably preferable.

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<sup>1</sup> Browne, Simons on Planning Law, 3<sup>rd</sup> edn, 2021 Chapter 10, Section G – Test of Proportionality?

- 9.5.2. Mr. Loughrey's submission both written and oral, on behalf of LCCC, sets the context for the consideration of alternatives and confirms that options have been examined as solutions to upgrade the deficiency in this section of the road network and to also address the flood risk concerns.
- 9.5.3. Four options were presented by Mr. Loughrey of MHL & Associates Ltd. (Section 6.0 of the First Party Response Statement prepared by MHP & Associates Ltd), as follows:
- Option 1 Do Minimum
  - Option 2 On line Corridor widening with traffic signal control junction
  - Option 3 On line corridor widening with roundabout junction
  - Option 4 Off line realignment with junction to east of O'Shea's public house
- 9.5.4. It is stated in the submission that Option 2 was selected as the preferred scheme. In this scheme design for option 2 it is stated that "*great care was taken within the scheme design to minimise the land take while providing an adequate road corridor that is fit for purpose*". Mr. Loughrey highlighted that O'Shea's public house is a protected structure and with this identified constraint Mr. Loughrey presented the examination of each of the four options at the oral hearing and outlined the reasons that no other option was demonstrably preferable.
- 9.5.5. The objector's submission is that option 4, moving the road eastwards of O'Shea's pub away from his property, would be the least impactful on their residential amenity and property. Mr. Loughrey explained that option 4 would require a new bridge to be built across the River Groody and would not resolve the existing flooding issues at the Ballysimon Bridge and was, therefore, discounted both on economic and environmental grounds. It is argued by the local authority that the preferred scheme (option 2) is a marked improvement on the existing situation for Mr. Nolan, which currently results in an unsafe manoeuvre to facilitate pick up by car at the pedestrian gateway (see Figure 7.6 of the First Party Response Statement) close to the corner of Old Ballysimon Road and Golf Links Road. I note that option 4 is likely to require significantly additional land take of private property.
- 9.5.6. The selected option will result in acquisition of residential curtilage and, as presented by the objector Mr. Nolan in writing and at the oral hearing, and as acknowledged by

the local authority will result in a significant change to the outlook and setting of the residential property, will detrimentally impact on the enjoyment of the use of the garden with respect to perceived loss of privacy and increase in traffic noise and increased air pollution by vehicles waiting for the traffic signals and that there will be a determinantal impact on the established residential amenity on a temporary basis during the construction period due to construction noise and restrictions to accessing his property.

- 9.5.7. In respect to the proposed land acquisition to accommodate the flood wall Mr. Loughrey, on behalf of LCCC, clarified during the oral hearing that the line of the proposed flood wall follows the natural line of the flood plain and will be to the rear of the treeline to rear of Mr. Nolan's property. He confirmed that the proposed flood wall would result in less land acquisition than would be required to provide a flood embankment and would, therefore, be less obtrusive on residents living along the bank than the proposed CFRAM embankment.
- 9.5.8. The local authority has presented accommodation works for Mr. Nolan which include creating a new pathway from the existing driveway to the property entrance across the front garden (Figure 7.7 of the First Party Response Statement). The objector Mr. Nolan, in earlier separate discussion with the local authority, and at the oral hearing has put forward an alternative new vehicular access location further west within their site as a solution. This proposal is illustrated in Figure 7.8 of the First Party Response Statement. The local authority whilst generally positively disposed in principle to such a new vehicular access arrangement, clearly sets out that a new vehicular access would be subject to a separate planning application and the assessment of same would be without prejudice.
- 9.5.9. During the course of discussions in the oral hearing further accommodation proposals were offered for Mr. Nolan's consideration including the preparation of planning application drawings and assisting with the submission of same in respect of the alternative entrance, at LCCC's expense. Furthermore, additional options were discussed in respect to minimising the impact of the proposed new boundary to the property and the provision of additional planting to replicate what planting is proposed to be removed. I acknowledge the efforts made in the constructive engagement between both the local authority and the objector.

9.5.10. In conclusion, I consider that the body of material presented by LCCC sufficiently demonstrates that the preferred option, as progressed to the Part 8 Scheme, achieves the objectives to provide a fit for purpose urban distributor road accommodating pedestrian, cycle and vehicular traffic (including facilitating future active travel route 'Smarter Travel Route IV' connecting Castletroy to Ballysimon) and flood defence in the vicinity of Ballysimon Bridge whilst minimising the necessary land take and that no other option that is demonstrably preferable.

9.6. *Consistent with the statutory development plan relating to the area*

9.6.1. The Limerick Development Plan 2022-2028 (the development plan) is the relevant statutory development plan relating to the area. I acknowledge the Senior Executive Planner's submission both in writing and oral submission at the hearing clarifies that at the time of the elected members approval of the proposed Part 8 the relevant statutory plan was the Castletroy Local Area Plan (LAP) 2019-2025.

9.6.2. The development plan incorporates the area previously covered by the Castletroy Local Area Plan (now revoked, see section 4.2 for policy reference purposes). Appendix II of the planner's written statement includes the relevant policy from the Castletroy LAP as it pertained at the time to the assessment of the Part 8 proposals and those policies and objectives from the current development plan.

9.6.3. For the purposes of the consideration of the CPO and the associated works and whether or not they accord with, or at least not be in material contravention of the policy and objectives contained in the statutory development plan relating to the area, as detailed in section 4.0, I note at a strategic level Policy TR P11: Road Safety and Carrying Capacity of the non-national Road Network in respect to safeguarding the carrying capacity and safety of the non-national network throughout Limerick. In addition, Objective TR 042: Roads and Streets to secure improvements to the road network in Limerick, including improved pedestrian and cycle facilities and Objective TR08 to provide clear, safe and direct pedestrian linkages, cycle networks between employment zones, shopping areas and residential area throughout Limerick and expanding the pedestrian route network and whether possible retrofit cycle and pedestrian routes into the existing urban road network. I am of the opinion that the CPO and associated works accord with these policies and objectives.

- 9.6.4. In respect to the proposed scheme design I consider that it has been demonstrated that both the road upgrade including new bridge and flood wall accords with Objective CAF 04: Climate Proofing where it is an objective of the council to ensure climate proofing measures are incorporated into the design.
- 9.6.5. During the hearing it was confirmed that having analysed the policy objectives of the development plan which superseded the Castletroy Local Area Plan (LAP) and, whilst noting there is no specific stated reference to the scheme within the development plan as was contained within the now revoked LAP, the local authority is of the view that the scheme is entirely consistent with the general objectives of that plan, which are quoted in Appendix 2 of the statement including Map 6 of Volume 2a of the development plan which indicates an indicative cycleway/walkway along the Golf Links Road. In their oral submission the local authority confirms that Map 6 discloses an indicative cycleway/ walkway on the Map and references what the proposed Part 8 scheme contemplates.
- 9.6.6. In conclusion, I am satisfied that the proposed CPO to facilitate the Golf Links Road Upgrade would accord with the provisions contained in the development plan and give effect to the mapped objective (Map 6, Volume 2a).

9.7. *Overarching proportionality*

- 9.7.1. I am satisfied that the process and procedures undertaken by LCCC has been fair and reasonable. As already considered in section 9.4, taking into account the unsuccessful engagement to acquire the land voluntarily I would be of the view that the compulsory acquisition is necessary and in my opinion the objective may not be achieved by means which are less interfering of an individual's rights, and the project proposed, and the associated acquisition of lands is suitable to meet the community need.
- 9.7.2. In considering whether the CPO will have an excessive or disproportionate effect of the objectors I acknowledge on one hand the Mr. Nolan's concerns in respect to the significant impact the road upgrade will have upon his residential amenity during construction and at the operational stage (Please refer to objector's statement described in Appendix 1 of my report). I also acknowledge Mr. Hickey's concerns with respect to the boundary treatment and access arrangements to his property, as noted in his letter of conditional withdrawal.

- 9.7.3. In undertaking an exercise to weigh these concerns against the advancement of the common good that would be served by the scheme, I note there will undoubtedly be inconvenience with the implementation of the Golf Links Road Upgrade scheme and, I acknowledge Mr. Nolan's worry in respect to the significant impact on his established residential amenity.
- 9.7.4. I acknowledge the efforts made by the local authority, in advance of and as offered during the oral hearing, to provide additional accommodation works and mitigation proposals (Including options for revised boundary treatment, replacement planting, new boiler/boiler house provisions, and the preparation of planning application drawings in respect to a new vehicular access and access to the property for separate consideration and without prejudice assessment by the planning authority) for Mr. Nolan and separately their engagement with Mr. Hickey in respect to his conditional withdrawal of objection.
- 9.7.5. I consider that the matters raised within the objections and at the hearing could be addressed in the compensation package. Matters relating to compensation are not within the remit of the Board. This is not to discount the legitimate concerns and potential negative impacts on the property owners.
- 9.7.6. On balance, I am of the view that the effects of the proposed CPO on the objectors' rights is proportional to the objective given the connectivity improvements, improvements of pedestrian and cyclist safety and the provision of new flood risk defence infrastructure and is a proportionate way of giving effect to the common good.

## **10.0 Conclusion and Recommendation**

- 10.1.1. I am satisfied that the process and procedures undertaken by Limerick City and County Council seeking confirmation of the CPO have been fair and reasonable, that Limerick City and County Council seeking confirmation of the CPO has demonstrated the need for the lands and that all the lands being acquired are both necessary and suitable to facilitate the provision of the Golf Links Road Upgrade.
- 10.1.2. Having regard to the constitutional and Convention protection afforded to property rights, I consider that the permanent and temporary acquisition of land as set out in the compulsory purchase order and on the deposited maps with the extinguishment

of any rights of way as indicated, pursues and is rationally connected to, a legitimate objective in the public interest, namely the upgrade of the Golf Links Road.

- 10.1.3. I am also satisfied that the acquiring authority has demonstrated that the means chosen to achieve that objective impair the property rights of affected landowners as little as possible; in this respect, I have considered alternative means of achieving the objective referred to in submissions to the Board, and am satisfied that the acquiring authority has established that none of the alternatives are such as to render the means chosen and the CPO made by the acquiring authority unreasonable or disproportionate.
- 10.1.4. The effects of the CPO on the property rights of affected landowners are proportionate to the objective being pursued. I am further satisfied that the proposed permanent and temporary acquisition of land as set out in the compulsory purchase order and on the deposited maps with the extinguishment of any public rights of way, easements and other rights as indicated would be consistent with the policies and objectives of the Limerick Development Plan 2022-2028 and gives effect to mapped objective contained in Map 6 (Volume 2a Limerick Development Plan 2022-2028). Accordingly, I am satisfied that that the confirmation of the CPO is clearly justified by the exigencies of the common good.
- 10.1.5. I recommend that the Board CONFIRM the Compulsory Purchase Order based on the reasons and consideration set out in section 11.0.

## 11.0 Reasons and Considerations

Having considered the objections made to the compulsory purchase order, the written submissions and observations made to the Oral Hearing held on 6<sup>th</sup> November 2024, the report of the Inspector who conducted the oral hearing into the objections, the purpose of the compulsory purchase order to facilitate the Golf Links Road Upgrade, and also having regard to:

- (i) the constitutional and Convention protection afforded to property rights,
- (ii) the need to provide a suitable road arrangement and replace a substandard road junction that will accommodate existing and future pedestrian, cycle and vehicular traffic accessing the Ballysimon employment hub area from the residential districts of Castletroy, Monalee, Newport and Annacotty,
- (iii) the community need for connectivity improvements, the overall benefits of improvements of pedestrian and cyclist safety and the provision of new flood risk defence infrastructure as a proportionate way of giving effect to the common good, to be achieved from the Golf Links Road Upgrade,
- (iv) the design response, which has been appropriately tailored to the identified need,
- (v) the suitability of the lands and the necessity of their acquisition to facilitate the provision of the Golf Links Road Upgrade,
- (vi) the provisions of the Limerick Development Plan 2022-2028 including the mapped objective for a cycleway/walkway on Golf Links Road (Map 6, Volume 2a),

it is considered that the compulsory acquisition of lands for the purposes of the Golf Links Road Upgrade by the Limerick City and County Council, as set out in the compulsory purchase order and on the deposited maps, is necessary for the purpose stated, which is a legitimate objective being pursued in the public interest, and that the CPO and its effects on the property rights of affected landowners are proportionate to that objective and justified by the exigencies of the common good.

In reaching this conclusion, the Board agrees with and adopts the analysis contained in the report of the person who conducted the oral hearing into the objections.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

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Claire McVeigh  
Planning Inspector

27 November 2024

## Appendix 1: Proceedings of Oral Hearing

### A. Background

An Oral Hearing (OH) was held on Wednesday 6<sup>th</sup> of November 2024 in relation to the proposed compulsory acquisition sought by Limerick City and County Council (LCCC) to upgrade the Golf Links Road in Limerick City. It was held online at the offices of An Bord Pleanála using Microsoft Teams software.

List of attendees:

		In attendance
1.	Carmel Brislane, A/Senior Executive Planner	√
2.	Brian Loughrey, MHL Consulting (Project Engineer for the Golf Links Road Upgrade Scheme) <a href="mailto:bloughrey@mhl.ie">bloughrey@mhl.ie</a>	√
3.	Brian Kennedy <a href="mailto:brian.kennedy@limerick.ie">brian.kennedy@limerick.ie</a>	x
4.	Hugh McGrath <a href="mailto:hugh.mcgrath@limerick.ie">hugh.mcgrath@limerick.ie</a>	√
5.	Mairead Corrigan <a href="mailto:mairead.corrigan@limerick.ie">mairead.corrigan@limerick.ie</a>	√
6.	Natasha McGarry <a href="mailto:natasha.mcgarry@limerick.ie">natasha.mcgarry@limerick.ie</a>	√
7.	John Cregan <a href="mailto:john.cregan@limerick.ie">john.cregan@limerick.ie</a>	x
8.	Leahy Reidy Solicitors LLP <a href="mailto:gkr@leahyreidy.ie">gkr@leahyreidy.ie</a> Gerard K. Reidy	x
9.	May Fitzgerald	√

	<a href="mailto:may.fitzgerald@limerick.ie">may.fitzgerald@limerick.ie</a>	
	<b>Objectors</b>	
1.	Anthony Nolan Represented by Mary Murphy of Mary Murphy Solicitors <a href="mailto:info@marymurphysolicitors.ie">info@marymurphysolicitors.ie</a> and Séan Nolan <a href="mailto:snolansligo@gmail.com">snolansligo@gmail.com</a>	√
2.	Liam Hickey Represented by Paul A. Murphy Agent <a href="mailto:paulmurphy@murphyoconnor.ie">paulmurphy@murphyoconnor.ie</a>	x
	<b>Others</b>	
1.	Tom O'Dowd	√
2.	Tom Hayes	√
3.	Karen McDonnell	√
4.	Cathal McMullan	√

## B. Participants

### *Local Authority*

Cormac MacNamara, Barrister of Law representing LCCC  
 Brian Loughrey, Project Engineer for the Golf Links Road Upgrade Scheme,  
 MHL Consulting  
 Carmel Brislane, Senior Executive Planner, LCCC  
 Hugh McGrath, Senior Engineer, LCCC

### *Objectors*

Mary Murphy Solicitor  
 Anthony Nolan

### **C. Opening of Oral Hearing**

- The inspector formally opened the hearing at 10am.
- Objector Liam Hickey and representative were not in attendance.
- Mr. MacNamara representing LCCC stated that they had received a letter of conditional withdrawal of objection from John McNamara & Associates Solicitors on behalf of Liam Hickey the evening previous (5<sup>th</sup> November) and on that basis expected that Liam Hickey may not attend the hearing.
- Mr. MacNamara confirmed that as the offer of withdrawal was conditional the local authority responded by letter to Liam Hickey (c/o John McNamara & Associates) outlining what actions they are willing to offer but these do not confirm the conditions that Mr. McNamara was seeking on behalf of his client.
- The Inspector confirmed that given the objector's withdrawal is conditional the proceeding would continue having regard to the written objection.
- Following clarification by the Inspector of the Board's receipt of the copy of the letter of conditional withdrawal, it was requested that the local authority make its formal submission.

### **D. Submission by Limerick City and County Council**

#### **Legal Overview**

##### Cormac MacNamara

Mr. MacNamara BL for LCCC opened by setting out background for the CPO for the lands necessary to implement the Part 8 Scheme. The overarching issue of the part 8 explained to put in appropriate traffic junctions, remove the pinch points in the roadway and flood risk mitigation.

Important at the outset to set out the legal principles that governs the CPO process. Mr. McNamara set out the four criteria to guide consideration of a CPO to progress the Part 8 consent, having regard to Supreme Court *Clinton v. An Bord Pleanala* (no. 2) [2007] which set out that the CPO cannot be confirmed unless the project is for the common good. Mr. MacNamara also referenced four principles that apply as set out in the key textbook 'Compulsory Purchase and Compensation in Ireland: Law and practice' 2<sup>nd</sup> Edition p. 127 (Galligan and McGrath):

1. Has it been established that there is a community need served by the proposed acquisition,
2. Is the acquisition necessary to meet the community need,
3. Alternatives have been considered and no alternative demonstrably better,
4. Consistent with/at least does not materially contravene the development plan,

In addition, the council accepts there is an overarching principle:

5. Overarching principle of proportionality – is it disproportionate in its effect against one landowner against the public good and interest served by the scheme as a whole?

Highlighted that the objector bears no burden of proof. A body of materials has been placed before the CPO process and the Inspector to adjudicate. No burden on the person objecting, the assessment is on the criteria identified and on the materials presented.

Mr. MacNamara introduced the order of the speakers confirming that Brian Loughrey Consulting Engineer will address the need for the upgrade, why the lands are necessary to be acquired in the way that they are and that that is a proportionate process in the circumstances.

Mr. MacNamara passed to Mr. Loughrey to present his statement that he prepared for the oral hearing.

Brian Loughrey

- Brief overview of CPO and development that would be facilitated by the CPO

Mr. Loughrey

Mr. Loughrey summarised his brief of evidence that was submitted to the Board on 5<sup>th</sup> November 2024 in advance of the hearing and which is on file.

Mr Loughrey provided a summary of a number of sections of their statement, including the main purpose for the road upgrade to provide Ballysimon employment hub and as part of the commuter road networks linking to the Castletroy District Centre with UL. The site is also subject to flooding.

- a. Need for improved transport links Castletroy LAP and Development Plan indicate growth need for junction improvements is identified, 2.5km link between Dublin Road and Old Ballysimon Road is suitable as far as the remaining 300m section that is the concern of the scheme. There are two major pinch points (Mill Race 3.7m) (Ballysimon Bridge 3.3m) on the approaches to these areas the road is substandard for an arterial road (less than 6 metres) in excess of 7000 (ATM) traffic movements with a likely increase to 8000. The 3-tonne limit on the bridge and it is structurally inadequate, and trucks have been evidenced taking that route despite the 3-tonne warning limit. Bridge parapets are being struck

on occasion. Issues with sightlines onto Ballysimon Road by the property to the right and the approach from the city that the road junction is not easily perceived on approach.

b. Safer environment for pedestrians and cyclists

There are no footpaths or segregated cycle lanes for these sections and no street lighting between Old Ballysimon Road and the Cairnsfort estate. Noting that the Golf Links Road is part of Smarter Travel Route (4) linking cycle Castletroy residential area to Ballysimon employment area.

c. Need for mitigating flood prevention

Flooding events in 2003/2004 O'Shea's bar was flooded and part of the road flood also. OPW have plans for flood relief works along the Groody River.

Flood study indicates that the current bridge would struggle with a 1 in 20-year flood. The requirement is for a 1 in 100 yr floor storm event prevention required, as designed in the Part 8 Scheme. In addition, the OPW requested that a 1 in 1000 yr flood event storm prevention is required for those properties included in the scheme extents.

- Justification for land acquisition with reference to alternatives considered

Mr. Loughrey

Section 6 of submission summarised in respect to the consideration of alterations (Options 1, 2, 3 and 4)

- a. Option 1 'do minimum' signalling the junction at O'Shea's and incorporating signals at both pinch points whilst keeping the existing corridor. Ruled out at early stage as it does not provide safer provision for pedestrian or cyclists and did not address the flood issues.
- b. Option 2 the preferred scheme design, as presented as the CPO.
- c. Option 3 ruled out on economic and environmental reasons. Higher speeds and increased noise levels. The scale of the diameter for the roundabout would result in higher speeds, and the visual impact does not align with the character of the road at the edge of the urban area of Limerick City.
- d. Option 4 Offline realignment  
The existing bridges would not be upgraded, and the flooding issue would not be addressed in this option. Additional land costs, significant extra land required and additional costs for new bridge. Road would be very close to a house that is currently habited close to O'Shea's public house.

- Response to written submission made by the objectors

Mr. Loughrey referred to section 7 of his written statement and moved to discuss the areas of land proposed to be included in the CPO, including the land to the rear up to the river of Mr. Nolan's property.

No comment to make on issue with respect to devaluation of property.

In respect to safety and access to and from his house (refer to figure 7.6 of his statement), acknowledged the need by the resident to be collected to attend visits to GP etc. Noted the location of the existing pedestrian gateway and

considers that the pickup point close to the existing junction is a dangerous manoeuvre for the Nolans.

The local authority is proposing a safer solution to create a pedestrian pathway from the existing driveway across the front of the garden to the property house entrance. It was suggested that the road traffic will be moved further from the house taking into account the location of the pathway and cycleway. Mr. MacNamara asked Mr. Loughrey to explain the measures proposed to help the car egress from Mr. Nolan's property. Figure 7.7. which includes a new loop detector in the footpath to assist egress from the driveway with the connection to the traffic signals and a yellow box.

A construction stage environmental management plan will be in place and a preliminary environmental management plan included with the contract to keep the noise to a minimum as required by EPA guidance and noise monitors positioned on site to ensure that these levels are monitored closely. Measures will be taken to close any operation with significant noise levels.

Flood wall to the rear of the property. Mr. Nolan has asked that this be reviewed as his property line goes to the centre of the river. The flood wall needs to be at this location as it follows the existing flood plain of the river where the river passes through the single arch. Notes the 2 additional flood eyes to the bridge, one that floods regularly and one that probably never sees water but may do in a 1 in 1000 flood. The area proposed to be taken in the low-lying area and behind the hedge line of the garden and the wall will be on the river side of the hedge close to the current riverbank. 1.4 m stone wall proposed, this wall and height designed to cope with the 1 in 1000yr flood risk as requested by the OPW.

Mr. MacNamara requests that the Inspector to take the balance of the Mr. Loughrey's statement as read.

Carmel Brislane a/Senior Executive Planner then set out considerations with respect to consistency with the relevant statutory plan.

Ms. Brislane

Ms. Brislane summarised her submission that was submitted to the Board on 5th November 2024 in advance of the hearing and which is on file.

Highlights for the hearing that the Castletroy Local Area Plan (LAP) 2019-2025 was the relevant statutory plan in place at the time of making the Part 8. It was a specific objective of the LAP to upgrade the Golf Links Road at the junction with Old Ballysimon Road in order to serve a number of objectives of the LAP (contained in Appendix 2 of the written statement). This plan was revoked following the adoption of the Limerick Development Plan 2022-2028.

States that they have analysed the policies and objectives of the Limerick Development Plan 2022-2028, which has superseded the Castletroy LAP, and confirms that there is no specific reference to the scheme and considers that the scheme as approved in the Part 8 is entirely consistent with the Development Plan.

Mr. MacNamara

Requests that Ms. Brislane confirm for the record that the Castletroy LAP was the relevant statutory plan in force at the time of making the Part 8.

Ms. Brislane confirms that is correct.

Ms Brislane

Begins to read through the objectives contained in Appendix 2. Inspector recommends that for the purposes of expediently these are taken as read.

Mr. MacNamara

Confirms that Ms. Brislane as per section 2 of their submission has analysed the policy objectives of the development plan which superseded the Castletroy Local Area Plan and, although there is no specific reference to the scheme within the development plan is of the view that the scheme is entirely consistent with the general objectives of that plan development plan sections which are quoted in Appendix 2 of the statement.

Draws attention to comments made in Section 7 of the statement by Mr. Loughrey. Mr. Hickey was not present, and the council is happy to rest on the written statement provided by Mr. Loughrey and does not require further elaboration in the circumstances.

That concluded the oral statements of the council in respect of the need of the scheme, the need for the land at issue, the issue of alternatives, the issue of whether it is considered with the development plan and that acquisition is consistent with the plans. The question of proportionality of impact of the acquisition on Mr. Nolan's land was addressed in Mr. Loughrey's statement.

***Break***

Hearing resumed at 11:11 and the Inspector sought confirmation again whether objector Liam Hickey and/or his representatives had joined, and if so if they wish to make a submission. No representatives or objector Liam Hickey came forward.

Inspector confirmed receipt of the letter of conditional withdrawal from Mr. Liam Hickey.

The Inspector sought clarification from Mr. MacNamara in respect to his concluding comments that the development plan did not include a specific objective with respect to the upgrade proposal at Golf links Road in relation to the status of the mapped objective (Map 6 Volume 2(a)) for Indicative cycleway/walkway shown along Golf Links Road connecting to existing cycleway/walkway on Old Ballysimon Road. (Inspector refers to Map C in error).

Mr. MacNamara confirms that the map discloses an indicative cycleway/ walkway on the Map and references what the proposed scheme contemplates but not as was previously specifically stated in terms in the Castletroy LAP.

#### **E. Submission by Objector**

Mary Murphy Solicitor begins Anthony Nolan's submission and provides an overview of the objector's concerns in relation to the CPO:

- Mr. Nolan has been living at the property on Old Ballysimon Road for almost all his life. He is firmly rooted in the area. He has a very nice garden which adds hugely to the aesthetic of his property.
- The proposed high stone wall adjacent to the side and front wall to the side (2.6m) within only 2.3 m at the front and 3.6 m at the rear will make the effect of the house much darker and a prison wall effect. Narrow passage will be created close to the kitchen door.

- He enjoys the ample and lush garden and as trees that will have to be removed to provide for the flood wall. Major loss of garden nurtures and maintained throughout the years.
- Losing his boiler house, a new condensing boiler would have to be provided.
- Notes the alternative route that moves the road further away from his house is not economic, but he is loser in the situation as the road will be very near his house and the high walls will have a detrimental effect on the enjoyment of his house.
- While it is stated that the upgraded road will be moved away from his house this is a result of losing his garden amenity.
- Concerns about the noise of traffic stopping and starting at the traffic lights and the position of his vehicular access close to the traffic lights.  
Understand that a separate planning application would be required for a new vehicular entrance away from the existing position close to the proposed traffic signals and he considers that this should be the responsibility of the local authority.
- Concerns about piling in close proximity to his house.
- Concerns about the effect of the development on him during the construction period, he is an elderly man and needs care and access to the house for carers and visiting members of the family. He will need additional care during the construction process, due to dealing with the noise and vibration impacts. The objector questions what mitigation can be provided.

- The prospect of this work has caused considerable distress to Mr. Nolan who has up to now enjoyed a peaceful existence in his nice house and beautiful garden.

Ms Murphy introduced Mr. Nolan to make a submission and highlighted that his son Sean Nolan was there to assist him.

Mr. Nolan

Mr. Nolan provided a personal statement to demonstrate the impact of the proposed CPO and its associated Part 8 Scheme on him, his property and garden.

For the record I have transcribed the statement in full below:

*“My name is Tony Nolan born on the 14 October 1929. I have had the pleasure of living in Ballysimon for 95 years I have been blessed with good health and enjoy a good life surrounded by good neighbours, friends and family. I have contributed a good deal to the wellbeing of my community, and I have left my mark, I think. And I do not say that very lightly or in any boastful way, but I have made a good contribution in many ways.*

*I have founded the Monaleen credit union, I have been involved in Milford care centre, I have reached out to my fellow citizens in very many ways. I have chaired the introduction of a group water scheme and so on.*

*I loved living in Ballysimon. I have been surrounded by, as Ms Murphy said, a beautiful garden where I could sit and admire flowers and the scenery.*

*Now in the evening of my life, I am worried, worried to think that in the name of progress it seems that everything that has made life... worthwhile will shortly be decimated, all in the name of progress. I have been told by the authorities my frontage will all but be removed, flowers will be gone, the lovely high hedge covered by three varieties of red roses will be no more. My front entrance and surrounding wall will be gone. How I am going to get in or out is not very clear to me. Privacy will be gone, and you cannot buy that.*

*To complete the picture my pride and joy, a well-established apple tree, that enabled my late wife to bake cakes and apples buns that were a joy to eat, that tree will be no more.*

*Take all the good things I have mentioned and enclose me in a concrete high wall structure that will hardly give me space to get in and out of the house. Makes me shudder, how am I expected to get a wheelchair in the front, I do not know, as the new wall does not seem to provide for that.*

*Replace my existing lifestyle surrounded by the flowers and indeed ... I dearly... and think about what the next few years will hold, the pile driving during construction, the installation of traffic lights that will no doubt add to the pollution while heavy trucks wait for lights to change, they don't not offer me much hope of peace day or night.*

*It is not a very happy ending to a life well spent, thank you".*

## **F. Questioning between parties**

- Mary Murphy Solicitor requests if the local authority will move the vehicular access to the site closer to the city side. Concerns about confusion at the junction resulting in traffic safety issues /danger at the entrance so close to the signalled junction.
- The wall structure that is proposed does effectively make his house look like a prison. He will be looking at a very high wall adjacent to his kitchen and extremely close to the property.
- The discomfort while the work is in progress, it will be horrific for him. The other alternative of the road diverted to the other side of O'Shea's public house, this would all be avoided.
- The works may very well require piling which will have detrimental effects on the property.

### Mr. MacNamara

- Mr. MacNamara outlined accommodation works put forward by the local authority which include:
  - New pathway from the existing driveway to the property entrances within the front garden.
  - Loop system connected to the traffic signals and yellow box junction to allow for ease of egress.
- Mr. MacNamara in response to Ms. Murphy's question about a new entrance, the local authority is certainly willing to entertain the proposal for a new vehicular entrance. This would be subject to a separate

application and the local authority can not at this time confirm the positive decision of same in advance of the separate consideration of the planning application by the planning authority.

- Mr. Loughrey addressed the issue raised about the height of the wall. He clarified that to the front and side the wall is proposed to be 1.8 metres in height to prevent overlooking of the garden and the house itself and to prevent some noise from traffic. If Mr. Nolan wished, this can be reduced to 1.6m and plant shrubs to replicating the current hedge to be removed at the rear of the wall. That is up to agreement.
- Mr. Loughrey explained that the proposed road scheme is constrained by the building on the opposite side, which is a protected structure. As part of the scheme design a 2.3m gap is provided roughly where the hedge is grown to from the photographs and varies to 3.8 m as is angled away from the front of the house to the rear (Refer to 7.4) and also having regard to the swept path movements – the junction has been designed as efficiently as possible for heavy goods vehicles as well as for buses. The route is on a future bus link.
- Mr. Loughrey explained that the local authority has ‘squeezed’ down the cycle lane and pedestrian with a shared surface at the junction to save the acquisition of lands and to work within the minimum corridor. Preferably would have had segregated cycleways but this would have resulted in an additional 0.5m of garden space off Mr. Nolan. Refer to Figure 7.4 of the submission showing the traffic signals with the front boundary in elevation and cross section.
- Inspector asked whether the swept paths presented were included in the Part 8 package or placed before the CPO process or Part 8. LCC

clarified that these diagrams were not part of Part 8 materials presented or CPO application but the use at the hearing was to illustrate the response to the comment that an excess of land is being acquired from Mr. Nolan. Mr. MacNamara asked Mr. Loughrey to give evidence with respect to the swept path in relation to Figure 7.3.

The local authority will relocate a new boiler house at the rear of the garden or at a location in agreement with Mr. Nolan.

Inspector seeks clarification on the accessibility issue to the property and the distance between the gable of the wall and the proposed new wall.

Mr. Loughrey offered a modification to the proposed wall - If the wall is reduced in height from 1.8 metre stone and if Mr. Nolan was agreeable to a different type of boundary the distance between the house and the wall could be increased. This would be substituting stonework for blockwork.

Mr. Loughrey outlined that Figure 7.7 illustrates the proposed scheme with accommodation works - the house with its driveway and the footpath from the concrete yard to the driveway, across the garden the footpath could be reduced in width from 2m to 1m to get from the driveway to the doorway. The induction loop will assist safe egress with the yellow box junction.

Mr. MacNamara wanted to highlight that engagement through Jan to March was undertaken, and a proposal was made (refer to Figure 7.8) as an alternative entrance outside of the Part 8 scheme, and the local authority confirmed that as such it would require a separate planning application. The local authority agreed that this could be included in the construction programme for the scheme.

Inspector asked local authority to clarify if piling will be required. Mr. Loughrey stated that there is a possibility that piling may be required but that issue would reveal itself during the detailed design stage.

The council will ensure that Mr. Nolan has access to his property at all times during the course of construction.

Inspector asked the local authority if they have any questions for the objector. Mr. MacNamara confirmed no questions.

Inspector asked clarification of alternatives in respect to the flood wall. Mr. Loughrey advised that the flood embankments proposed by the OPW would be 5m at their base and would, therefore, require additional land take from the objector. Mr. Loughrey also confirmed that the current trees that exist will be left in place, where possible, and new planting if agreed with Mr. Nolan.

In respect to the replacement of existing double gate proposal to change to a single gate – Inspector sought clarification that the new pedestrian gate will allow appropriate access. Mr. Loughrey confirmed that the gateway will be 1.2m wide and will allow for wheelchair use if required.

Mary Murphy stated that it appeared that the onus of making of a planning application for a new vehicular access is placed on Mr. Nolan. She highlighted that these cost money and work which would be unfairly imposed on Mr. Nolan. The proposal to lower the wall, there is a concern about more noise may not allay his fears.

Mr. MacNamara affirmed that the positive adjudication of the planning authority cannot be confirmed at this time, it is an independent process, and

the planning authority would have to consider it on its merits. In relation to the cost of preparing the drawings of that application the local authority confirmed they are willing to prepare same and submit with appropriate consent from him and subsume the cost of any ancillary works. Mr. MacNamara emphasised that the local authority cannot give a commitment on the planning application that is part of a public process and must be adjudicated on its merits.

Mary Murphy clarified that the council would incur the costs and would do the groundwork for that application.

Inspector clarified with the local authority if such entrance arrangements would require any change to the CPO boundaries before us. Mr. MacNamara indicated that it would not require any change to the CPO boundaries.

## **G. Closing statements**

### Anthony Nolan

*"I appreciate the efforts being made by everyone concerned to deliver a proper plan that would enable me to live out the last few years of my life in peace, thank you".*

### Mr. MacNamara

On behalf of Limerick City and County Council thanked the participation of Mr. Nolan and Mary Murphy today.

The CPO has to be measured subject to legal criteria, in summary:

- a) Need for the scheme – sufficient material to demonstrate a very clear need for the scheme. Inadequate and unsafe access onto the Old Ballysimon

Road, the bridge structures are not designed to support the traffic that flows over it, and the bridge structures are liable to flood.

- b) Whether the land is required to deliver the road upgrade – Mr. Loughrey gave very detailed evidence as to why the area of land, in particular Mr. Nolan's land the amount to be acquired are to meet the needs of the scheme in the flood relief wall and the road upgrade. That is not to discount or be dismissive of the concerns and clearly a man who is very attached to his locality and his property and has very legitimate concerns of the disturbance. It has been demonstrated by reference to the materials that the land is required to deliver the road upgrade.
- c) Whether there are any alternatives to what is being proposed here Mr. Loughrey put together a body of evidence that this is the best solution to solve the issues, particularly at the junction with the Old Ballysimon Road.
- d) Ms. Brislane outlined that the proposal is consistent with the Castletroy LAP and the Development Plan currently in force.
- e) In respect to the issue of proportionality - the objection of Mr. Hickey in writing and the oral submission by Mr. Nolan there will certainly be inconvenience for Mr. Nolan, in particular, it is important that this CPO is progressed in the interests of road safety and provision of flood infrastructure that will be a product of the scheme.

Mr. MacNamara, in agreement with Mr. Nolan, acknowledged that the relations between LCCC and the objector has been cordial and constructive, and subject to the confirmation of the CPO all efforts will be made in this difficult transition in a period in Mr. Nolan's life will be made as easy as possible.

## **H. Closing of the Oral Hearing**

The inspector made final comments and thanked the participants. It was confirmed that a report and recommendation would be prepared for the Board, who will make a determination on the proposed CPO in due course.

The inspector closed the Oral Hearing at approximately 12:10.